

Applicant has previously argued that LaJoie neither discloses nor suggests "means for designating a preferred media type which reflects the user's interests, independent of the means for providing the user with the option of designating favorite channels" or "means for providing the user with the option of channel selection constrained to the favorite channels of the preferred media type, the subset produced by filtering the channels using the favorite channels and preferred media type as the selection criteria to produce the subset of channels."

Williams fails to make up for the inadequacy of LaJoie. The Examiner states:

"Williams discloses a method and system for automatically configuring a system based on a user's monitor system interaction...wherein the user preferred media types and preferred settings...are automatically set up and sorted out as a separate sort criterion for him on the preferred media list..., as well as the genre of the programming available during the time period...and from different medium, i.e., cable, satellite or audio sources."

Applicant respectfully disagrees with the Examiner's characterization of "media" as understood in Williams. Applicant has defined the term "media type" differently than Williams has used the term "media" or "source." The courts have held that "patent law allows the inventor to be his own lexicographer."

Autogiro Co. of America v. United States, 384 F.2d 391, 397, 155 USPQ 697, 702 (Ct. Cl. 1967). "This rule of construction recognizes that the inventor may have imparted a special meaning to a term in order to convey a character or property or nuance relevant to the particular invention. Such special meaning, however, must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of

experience in the field of the invention." Multiform Desiccants Inc. v. Medzam Ltd.,
45 USPQ2d 1429, 1432 (Fed. Cir. 1998).

Applicant's invention is concerned with the problem of searching for programming among different media types, in which each media type has distinctive characteristics discernible at the user level. As applicant has stated, "each media type may have visual displays and sound levels, as well as a required degree of user attention/interaction that is distinctive for different types of media. It may be confusing to the user to switch between media types during a viewing session" (specification, pp. 12-13). Thus, applicant's invention solves this problem, as defined in the claims, by "providing the option of constraining program selection to a subset of favorite channels of the preferred media type" so that the user is exposed only to the visual displays or sound levels, etc. that are inherent in the preferred media type.

Williams does not teach the concept of media type as disclosed by Applicant. In contrast, Williams uses the term "source" and "media" interchangeably to describe the medium of transmission of a signal, e.g., cable, satellite, VHF or UHF radio frequency communication, etc. (See, e.g., col. 8, lines 60-65), without regard to the characteristics of the particular channel at the user level. Thus, Williams neither discloses nor suggests the concept of supplying "information on the media types that are associated with each of the channels," as claimed in claims 1, 11, 19 and 28. For example, Williams does not identify

a cable channel as an audio cable channel, a satellite channel as an audio satellite channel, or a UHF broadcast channel as an audio UHF broadcast channel as such, and therefore could not group these channels (of different source types) as "audio" media type. Consequently, Williams is unable to designate a preferred media type independent of designating favorite channels or use the preferred media type as a selection criterion, as claimed in claim 1, 11, 19 and 28. Accordingly, it is requested that the rejection under 35 U.S.C. § 103 be withdrawn.

Claims 1, 11, 19, and 28 are therefore in condition for allowance. Claims 2-10 which depend from claim 1, claims 12-18 which depend from claim 11 and claims 20-27 which depend from claim 19 are also allowable.

VI. Conclusion

Claims 1-28 are in condition for allowance. This application is therefore in condition for allowance. Reconsideration of the application and allowance are respectfully requested.

Respectfully submitted,



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